

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO. 05-30104-MAP

CHESTER J. SEARS,)
Plaintiff,)
)
v.)
)
MASSACHUSETTS TURNPIKE)
AUTHORITY and CHESTER J. GDULA,)
Defendants.)

DEFENDANT CHESTER GDULA'S
MOTION TO DISMISS THE COMPLAINT

Pursuant to Fed. Civ. P. 12(b)(1) and 12(b)(6), defendant Chester Gdula ("Gdula") hereby moves to dismiss the Complaint in the above-captioned action for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

In support of this Motion, Gdula states that all counts of the Complaint assert only state-law claims and, therefore, there is no subject matter jurisdiction for this Court. Also, Counts II and IV of the Complaint for negligent and intentional infliction of emotional distress are barred by the exclusivity provisions of the Massachusetts workers'

compensation statute, M.G.L. c. 152. A memorandum of law is submitted herewith in support of this Motion.

Respectfully submitted,

CHESTER GDULA

By his Attorneys,



Edwin F. Landers, Jr., BBO#559360

Lynne McNeill, BBO#644721

MORRISON MAHONEY LLP

250 Summer Street

Boston, MA 02210

(617) 439-7500

Dated: July 13, 2005